DOCUMENT RESUME

ED 463 961 SE 066 000

TITLE	Trademarks: The Fingerprints of Commerce. An Educational Guide to Understanding the Importance of Trademarks.
INSTITUTION	United States Patent and Trademark Office (DOC), Washington, DC.
PUB DATE	2001-00-00
NOTE	39p.
PUB TYPE	Guides - Classroom - Teacher (052)
EDRS PRICE	MF01/PC02 Plus Postage.
DESCRIPTORS	*Business Education; Elementary Secondary Education; Learning Activities; *Trade and Industrial Education
IDENTIFIERS	*Trademarks

ABSTRACT

This document explains the importance of trademark and federal registrations and presents educational ideas. The contents include: (1) "What Is a Trademark?"; (2) "A World without Trademarks?"; (3) "Procedures for Obtaining a Federal Registration"; (4) "The Rap on Trademarks"; (5) "A Note to Educators"; (6) "Tips for Creating your Trademark"; (7) "Activities: Make your Mark on the World Exercises"; and (8) "Trademark Owners & Federal Registration Numbers." (YDS)

Reproductions supplied by EDRS are the best that can be made
from the original document.

ED 463 961

Trademarks

The Fingerprints of Commerce

TM

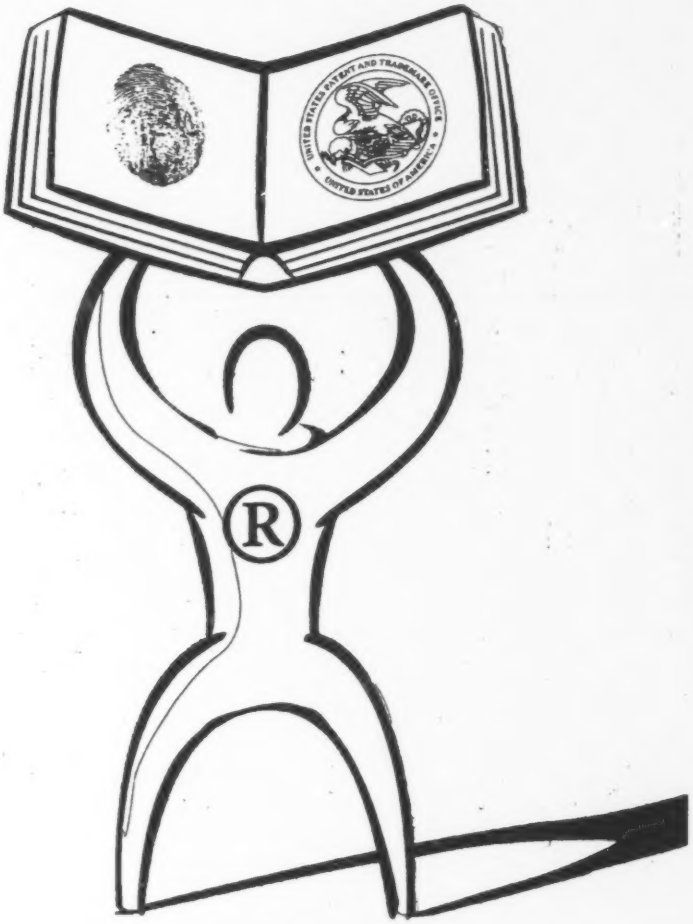
An Educational Guide

to Understanding the

Importance of

Trademarks

® SM



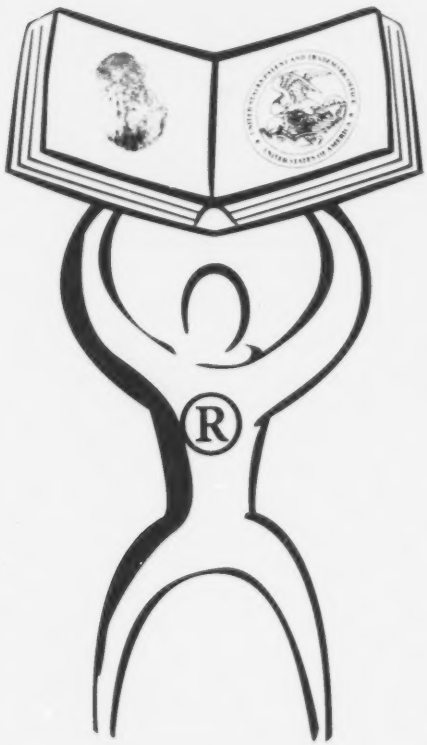
U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
☐ This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

BEST COPY AVAILABLE

Produced by the United States Patent and Trademark Office

TRADEMARKS

THE FINGERPRINTS OF COMMERCE



"AN EDUCATIONAL GUIDE TO UNDERSTANDING THE IMPORTANCE OF TRADEMARKS"

Produced by the United States Patent and Trademark Office

DISCLAIMER

The products, companies and/or organizations appearing in this book are for presentation purposes only and in no way constitute an endorsement by the U.S. Government, the Department of Commerce, the U.S. Patent and Trademark Office nor any other agency thereof. Reference herein to any specific commercial product or service, or to any trademark or service mark name is merely for illustrative purposes and does not necessarily constitute or imply its endorsement, recommendation, or favoring by the U.S. Government or any agency thereof. The views and opinions of the author expressed herein do not necessarily state or reflect those of the U.S. Government or any agency thereof.

4

CONTENTS

Introduction 4

What Is A Trademark? 6

A World Without Trademarks? 12

Procedures For Obtaining A Federal Registration 16

"The Rap On Trademarks" 18

A Note To Educators 20

Tips For Creating Your Trademark 24

Activities: Make Your Mark On The World Exercises 27

Trademark Owners & Federal Registration Numbers 32

Acknowledgements: 35

Notes 36

INTRODUCTION

The U.S. Patent and Trademark Office is a non-commercial Federal agency and one of 14 bureaus in the Department of Commerce. The U.S. Patent and Trademark Office's trademark organization is responsible for examining applications for the registration of trademarks. The Office is also responsible for the dissemination of information regarding the registration of trademarks. Each week, over 4,000 trademark applications are received.

The average American encounters about 1,500 trademarks each day - from the closet, to the bathroom, to the kitchen, on the way to school, to work, in newspapers and magazines, on television and radio, in supermarkets, in arcades, in restaurants and shopping malls. We are literally surrounded by trademarks. Trademarks provide us with valuable information. They are source indicators which allow us as consumers to know what to expect in the quality of a product or service. They allow us to buy with the assurance that we are getting products or services which we liked in the past. Likewise, trademarks allow us to avoid those products or services we did not like.

What's in a Name?
You mean you haven't heard?

A trademark is more,
far more than mere words!

WHAT IS A TRADEMARK?

A trademark is any word, name, symbol or device (or combination thereof) that identifies and distinguishes the source of the goods of one party from those of another.

A service mark is the same as a trademark except that it identifies and distinguishes the source of a service rather than a product.

Normally, a trademark appears on the actual product or on the packaging for the product, while a service mark appears in advertising for the services. Many trademark owners use a TM (trademark) or SM (service mark) symbol with their mark to indicate that they are claiming rights to it. The symbol ® may only be used if the U.S. Patent and Trademark Office has issued a Federal registration for the mark.

Federal registration of trademarks is not a requirement; however, it is advisable since Federal registration accords the owner of a trademark certain advantages over unregistered marks. First and foremost the Federal registration ®, puts the world on notice that a trademark owner actually owns the mark and has exclusive rights to the use of it for particular goods or services.

OTHER ADVANTAGES OF FEDERAL REGISTRATION INCLUDE:

1. The ability to use Federal courts to prevent others from improperly using* your trademark on their goods or services.
2. The ability to receive up to three times your damages (called "treble damages") if a party is found by a court to be improperly using or INFRINGING on your mark.
3. The ability to file applications for trademark registrations in other countries, based upon your United States Registration; and
4. The ability to prevent people and/or businesses from other countries from shipping goods into the United States, that falsely display your mark on their goods.

* The improper use of a trademark by a party who does not own the mark is called TRADEMARK INFRINGEMENT.

Throughout this book, the terms "**trademark**" and "**mark**" are used to refer to both trademarks and service marks whether they are word marks or other types of marks. Although people often think of words and symbols when they think of trademarks, trademarks come in a variety of forms. They can be sounds, shapes, colors, building designs, animated characters and even smells. The key is that the mark must serve as a source indicator for the goods or services. That is, the mark must help you to answer the question "Who makes these goods?" or "Who provides these services?"

SOUNDS

Of the approximately 900,000 registered trademarks that have been registered in the U.S., over 30 are sounds. Among them are the MGM (Metro-Goldwyn-Mayer) lion's roar and the National Broadcasting Company's chimes.

SHAPES AND DESIGNS OF OBJECTS (CONFIGURATIONS)

Many goods and services are immediately recognizable by the distinctive shape and appearance of the packaging or of the actual goods. Did you know that the following shapes and designs are registered trademarks? How many do you recognize? (See page 31 and 32 for answers)

COLORS

The Owens-Corning Company was the first company to register a single color as a trademark for its goods. The company registered the color "pink" as a trademark for use with its fibrous glass residential insulation (*Just like the lining in your winter coat helps insulate your body to keep you warm, fibrous glass residential insulation acts as a lining for the walls of a house to keep it warm). The Patent and Trademark Office initially refused the company's trademark application; however, the Owens-Corning Company was able to overcome the Office's refusal by showing that customers of residential insulation knew that pink insulation came from a particular source.

10

Sounds, Shapes, Colors and Even Smells.

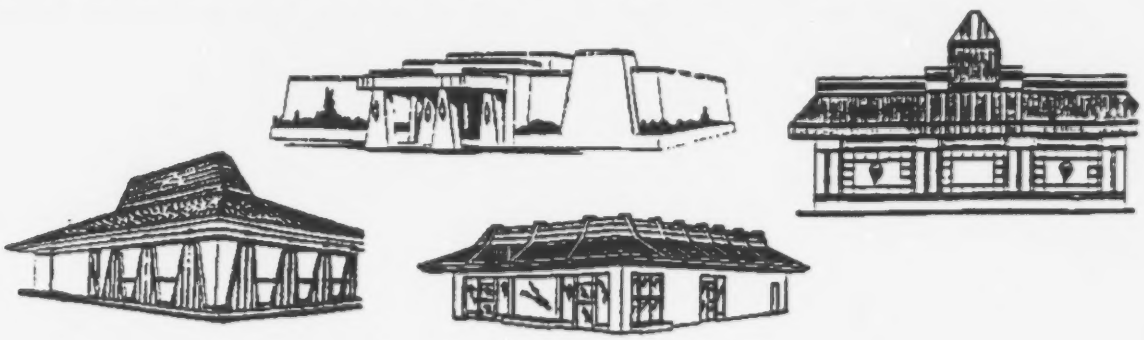
All kinds of ideas to help products sell.

SMELLS

The smell of a product can also serve as a trademark. In 1991, a woman from California registered a scent for her sewing thread and embroidery yarn. The trademark was described as "a high impact, fresh, floral fragrance reminiscent of plumeria blossoms."

BUILDING DESIGNS

The design of a building can be registered as a trademark or service mark. How many of the following source indicators can you recognize? (See page 32 for answers)



CHARACTER MARKS

Many companies use funny and interesting characters to promote the sale of their goods. Test your trademark I.Q. How many of these character trademarks can you identify? (See page 32 for answers.)

Some Silly, some Serious
And some even Sing!

Truth is, a Trademark can be almost anything!

A WORLD WITHOUT TRADEMARKS?

What would happen if we lived in a world without trademarks?

If there were no trademarks, people would not be able to distinguish between the goods and services they liked and those they disliked. Every object or service would be called for by its generic name and we would have no way of distinguishing between those products that are good and those products that are not so good.

Remember, the main purpose of a trademark is to serve as a source indicator. A generic term identifies a type of product or service, without indicating any particular manufacturer or source. For example, "cola" and "soda" are generic terms, PEPSI ® and COKE ® are examples of trademarks used to identify types of cola and soda; "hamburger" is a generic term, BIG MAC ® and WHOPPER ® are examples of trademarks used to identify hamburgers which come from a particular source; and "sneaker" and "athletic shoe" are generic terms, NIKE ® and REEBOK ® are trademarks used to identify a particular type of sneaker or athletic shoe. Try to think of other examples of generic goods and give examples of trademarks or service marks that are used to identify them .

Can you match the following trademarks with the generic names for the goods?

ROLLERBLADE ®	Over-night courier service
COKE ®	Facial tissue
KLEENEX ®	Photocopier
XEROX ®	Soft drink
FEDEX ®	In-line skate

A shooting star, or even a Flying Horse

It's more than a name, it's recognition of a source.

*Did you know that the shooting star pictured in the Netscape logo is a registered trademark for on-line computer services? The flying horse, Phagesus, is registered by TriStar as a mark for motion picture services.

DID YOUR KNOW?

Once **ASPIRIN** was a registered trademark. Today, aspirin has many brand names because the trademark came to be used as a category of goods rather than as a brand name or trademark. Trademarks lose their ability to identify the source of specific goods when the public begins using them as generic names of goods. Here are some examples of former trademarks that have become part of our daily language. Can you think of others? (See page 33 for answers.)

- **Escalator** was once a trademark for the product known as a "moving stairway."
- **Cellophane** was once a trademark for the product known as "plastic food wrap."
- **Zipper** was once a trademark for a product known as a "slide fastener."

Individuals and companies use trademarks because they want you to be able to distinguish their goods from those of others. They want consumers to recognize and trust their products. Individuals and companies use trademarks to improve their reputations, sometimes called "good will ." If a consumer trusts an individual's or company's name or reputation, he or she will be more likely to buy from that individual or company. For this reason, trademarks can be very valuable to their owners. Can you think of any reasons why a trademark owner would want to prevent another person from using his or her mark on their goods? (See page 33 for answers.)

The R in the Circle ® Hmmmmmmmm, what does that show?

That a Trademark is Registered with the USPTO!

(United States Patent and Trademark Office)

PROCEDURES FOR OBTAINING A FEDERAL REGISTRATION

Do You Want to Obtain a Federal Registration for a Trademark? If so, Here's the Process:

1. File an application with the U.S. Patent and Trademark Office. To file an application you must either be using the mark in commerce or intending to use it in commerce. The application consists of a statement by the owner of the mark, a depiction of the trademark and an application fee.

2. When your application arrives at the U.S. Patent and Trademark Office, it is stamped with a filing date, given a serial number and assigned to one of over 300 trademark examining attorneys.

3. The examining attorney assigned to your application will search for similar marks that have been previously registered or applied for registration on related goods or services and analyze any other legal or administrative issues. If your application is refused for any reason, you will receive an explanation by mail. You can respond to the refusal and either change your application to overcome any objections or argue in favor of acceptance.

4. After you have responded, the examining attorney will either approve the application for publication in the Official Gazette, (a weekly publication that lists trademarks that have been approved for registration for the world to see) or issue a final refusal to register the mark.

   If your application is approved for publication it will be published in the weekly Official Gazette. Once your application is published, any interested party has 30 days to object to the registration of your trademark. Generally, marks are opposed by either earlier users of a similar mark or by another who would be harmed by registration of the mark. If someone objects, the Trademark Trial and Appeal Board, the administrative judicial body responsible for overseeing trademark matters before the Office, holds an "opposition proceeding" to determine if the mark should be registered. An opposition proceeding is a hearing to determine whether the mark is entitled to registration.

   If the examining attorney issues a final refusal to register your mark, you may appeal the refusal before the Trademark Trial and Appeal Board. If you lose, you can obtain judicial review in the U.S. Court of Appeals for the Federal Circuit or in a U.S. District Court having jurisdiction.

5. If there are no objections to the registration of your mark, you will receive a Federal registration. Once you have a Federal registration, you must maintain it to keep it. Your registration can be canceled in the first five years if someone objects to your ownership of the mark. (Objections are usually filed when an individual or company feels that a mark (a) infringes their trademark, (b) is so descriptive that it is not capable of serving as any one person's trademark, and/or (c) the trademark is not actually being used in commerce. In such a case, a proceeding will be held to determine whether the registration should be canceled.)

   After holding a registration for five years, you must file a declaration that demonstrates that you are still using the mark. In order to maintain your registration, you must file a renewal and provide proof of use every 10 years.

   Unlike other forms of intellectual property (copyrights and patents), trademarks can last forever if they are continuously used and maintained.

   Trademark applications may be filed on line at the USPTO website: www.uspto.gov.

"THE RAP ON TRADEMARKS"

Yo, TRADEMARKS are what I'm here to say
Are important to you in many a way;
You may say it's jive, or think it's square
But listen up ya'll, 'cause the message is rare;

You may think "TRADEMARKS - What's the big deal?!"
Well, just look around, 'cause they're very real;

The clothes you wear, the shoes on your feet
The food you eat, the cars on the street
The toys you play with, the music you hear
The sports and entertainment you cheer,
They all have TRADEMARKS to help you choose
The goods and services that you use;

So, when you shop, please be aware,
TRADEMARKS help you buy with care!

And that's what Trademarks are all about

Giving you confidence, Erasing all doubt.

A NOTE TO EDUCATORS

The MAKE YOUR MARK ON THE WORLD EXERCISES were created to enhance students' interest in and enthusiasm about the importance of trademarks. Through the exercises, students will learn to use creative thinking skills and knowledge of human nature to create and design trademarks and service marks.

Materials and Equipment

- Paper and writing utensils for brainstorming
- Construction paper and colored markers for designing trademark labels and advertisements
- Magazines or newspapers for the purpose of locating examples of trademarks and service marks.

Objectives

Through the MAKE YOUR MARK activities, students will:

- become familiar with the concept of trademarks and their function in the market place;
- learn how to use creative thinking skills to develop and design their own trademarks and service marks;
- understand the importance of selecting trademarks for goods and services that do more than merely describe the goods; and
- become familiar with the possible ramifications of allowing similar marks to exist for similar goods or services.

Relevance

MAKE YOUR MARK ON THE WORLD is an excellent tool to aid in the search and implementation of creative possibilities. It encourages students to apply information known about a product (or service) with the function or potential consumer of the goods (or service) in order to derive a name which will appeal to the public and uniquely identify the goods. Once the student knows how to apply his or her creative thinking skills to the examples in the MAKE YOUR MARK exercises, he or she will be able to appreciate the thought processes that go into developing a trademark or service mark. Moreover, the student will appreciate his or her own ability to create and develop trademarks and service marks.

So before you open your wallet or your purse

Remember Trademarks – The Fingerprints of Commerce

Procedures

Before your student or child begins to create his or her own trademarks through the completion of the attached exercises, the teacher or parent should assist the students in understanding the concept of trademarks. The information in this book, TRADEMARKS - THE FINGERPRINTS OF COMMERCE, An Educational Guide to Understanding the Importance of Trademarks, presents a brief overview of the function of trademarks.

Suggested Activities

Ask the students to identify trademarks and service marks in magazines or newspaper advertisements. As an exercise, ask the children to try to count up the number of trademarks they see in a day or on a trip or outing. Ask them to give examples of slogans which serve as trademarks, for example "Just Do It!" ® owned by NIKE or "Obey Your Thirst" ® and "Coke is It" ®, owned by Coca Cola, Inc. Encourage the students to discuss what it is about the slogan that makes it stick in their minds? Is it effective? What does it make them think about? How does the slogan relate to the actual product or service? Does it relate to the product or service? What makes the mark unique, what makes it special?

The students should be encouraged to develop novel and creative words, phrases or slogans to identify their products. Encourage your young person to go beyond merely naming the goods by the generic name or purpose of said goods. The more unique and creative a mark is, the more likely it is that the owner of the mark will be able to obtain the protection of a Federal registration. The MAKE YOUR MARK EXERCISES are designed to encourage students to think about the rationale for avoiding marks that are similar to marks already registered and for avoiding marks that merely describe a product or service.

The exercises are designed for pairs or small groups. Each exercise defines the problem and the issues the students must address to solve the problem. Students should engage in brainstorming to generate numerous ideas for possible trademarks and service marks. The objectives of the exercises are to get students to think critically about the concept of trademarks and to nurture their creative skills in creating their own unique marks.

Extensions

Encourage the students to create magazine or newspaper advertisements for the goods or services in the exercises. Another possibility is to have the students write commercials using the trademark and/or service marks. The commercials may be videotaped and played back to the class along with professional advertisements for similar goods or services.

Encourage the students to develop their own goods or services and to develop trademarks or service marks to advertise their product. The information contained in this book may be easily incorporated into assignments involving inventions, business development and/or advertising.

Encourage the students to visit the U.S. Patent and Trademark Office's website at **http://www.uspto.gov**. Students can actually fill out a real trademark application and search the USPTO's database to determine whether marks already exist that are similar to the ones they create.
Estimated Time Required: 90 to 120 minutes

TIPS FOR CREATING YOUR TRADEMARK

The following list includes the most common reasons a trademark examining attorney might refuse to register an applicant's proposed trademark. Some of these refusals can be overcome by evidence, argument or amendment by the applicant. This list of refusals is offered here to assist students in the creation of trademarks for the MAKE YOUR MARK exercises.

7 Common Reasons for Refusal

1. THE PROPOSED MARK IS LIKELY TO CAUSE CONFUSION WITH A PREVIOUSLY REGISTERED MARK.
   For confusion to be likely, the marks must be similar and the goods or services related. Likelihood of confusion is considered from the standpoint of the average consumer for the goods or services.
2. THE PROPOSED MARK DESCRIBES OR MISDESCRIBES THE GOODS OR SERVICES TO WHICH IT IS APPLIED.
   Consider whether the mark identifies a purpose, characteristic, quality, use, ingredient, function or feature of the goods or services.
3. THE PROPOSED MARK PRIMARILY DESCRIBES OR MISDESCRIBES THE GEOGRAPHIC ORIGIN OF THE GOODS.
   The place must be a recognized geographic location that is not remote or obscure.
4. THE PROPOSED MARK IS JUST A SURNAME (last name).
5. THE PROPOSED MARK IS IMMORAL, DECEPTIVE OR SCANDALOUS.
6. THE PROPOSED MARK DISPARAGES, FALSELY SUGGESTS A CONNECTION WITH OR BRINGS INTO CONTEMPT OR DISREPUTE: PERSONS, INSTITUTIONS, BELIEFS OR NATIONAL SYMBOLS.
7. THE PROPOSED MARK CONSISTS OF THE NAME, PORTRAIT OR SIGNATURE OF A PARTICULAR LIVING PERSON WITHOUT HIS OR HER CONSENT.

But, Wait . . .
Making a mark is not just something that other folks do,

Anyone can create a trademark and that includes YOU!

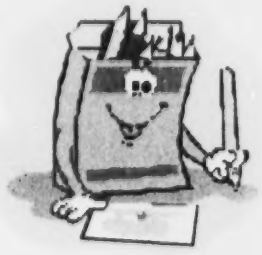
DEVELOPING A GOOD MARK

Be as CREATIVE as possible. Consider making up a new word, phrase or symbol. Avoid generic names for the goods or services. Suggestive marks often make excellent trademark choices. Suggestive marks are marks which make the consumer think of a particular characteristic of the goods or services but do not describe a particular characteristic of them. For example, "HOT-DOG" for a sports item where a particularly skillful user may be called a "hotdogger."

"Buy a HOT-DOG & Catch the Wave!"

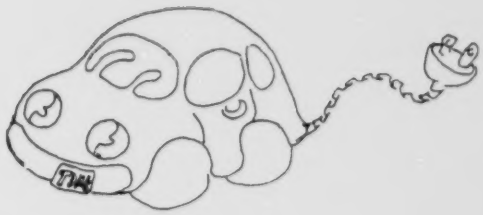
Arbitrary or coined/fanciful marks often make the best marks. Arbitrary marks are those which have no connection whatsoever to the goods or services to which they are applied. For example, APPLE® for computers.

Now it's your turn to MAKE YOUR MARK. Let your imagination run wild!



ACTIVITIES: MAKE YOUR MARK ON THE WORLD EXERCISES

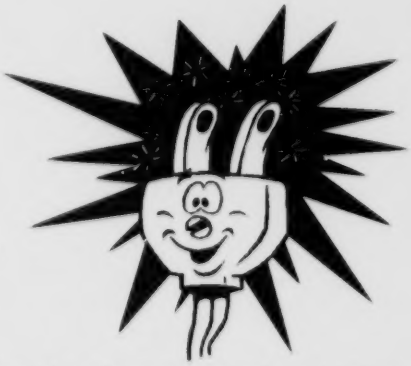
Make Your Mark I



You are a junior executive at the Save the Planet Car Company. Your company has developed an electrically powered car. The car, which surpasses any electrical car currently on the market, is capable of traveling 120-150 miles without recharging. The car is environmentally sound, quiet, comfortable and offers all the comforts of gasoline powered vehicles. The cost to power the car is a mere fraction of the cost of gasoline. Save the Planet wants to find a catchy name for its new car. (1) Please name the car and (2) design a character mark to promote the environmental benefits of the car.

Example
Name of Car : LECTOGREEN
Character mark: Mr. Plugget

Make Your Mark II



Save the Planet Car Company has developed an electrically powered car. The car, which surpasses any electric car currently on the market, is capable of traveling 120-150 miles without recharging. The car is environmentally sound, quiet, comfortable and offers all the comforts of gasoline powered vehicles. The cost to power the car is a mere fraction of the cost of gasoline. The advertising agency of the company has designed a character mark to promote the sale of the car; however, they were unable to think of a name for the character. The president and vice-president of Save the Planet have heard how creative you are and they want you to develop a name for the character mark and a slogan for the company to use in promoting the electric car.

Example
Character's name: Mr. Plugget
Slogan: "Whether you're going to work or out to play plug in our car, and drive all day! "

Make Your Mark III

"Stop the Blaze Chemical Company" has developed a substance for use in combating forest fires in the mountain ranges of the Western United States. The substance is best described as "a slimy red goo." Airplanes are used to spray the substance on to trees, shrubbery, and other vegetation. The substance coats the plants and acts as a fire retardant barrier which prevents the forest fires from spreading to the treated areas. The company's advertising agency has designed a character mark to promote the use of the flame retardant goo. The advertising agency has been unable to think of a name for the character. The president and vice-president of Stop the Blaze have heard about your creative thinking skills and they want you to develop a name for the character mark and a slogan for the company to use in promoting the goo.

Example

Name of Character: GOOGOBLET

SLOGAN: "When the going gets hot, and you feel like you're in a maze, send Googoblet to the spot with the goo to Stop the Blaze!"

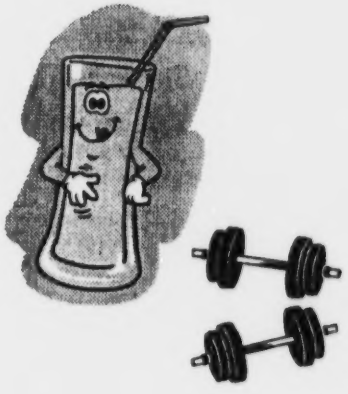
30

Make Your Mark IV

Photostat, Inc.. has developed an in-line skate. Photostat's director of advertising, Ms. Karbone De-Copi, wants to call the new product "ROL-A-BLADE." You are the Trademark Advisor for Photostat, Inc. Do you see any problems with Ms. De-Copi's suggested trademark?

Should Ms. De-Copi's mark be granted a federal registration? Why or why not? (See page 33 for answers.)

Make Your Mark V



Generic Drink, Inc. has developed a new sports beverage mix designed to provide vitamin and mineral supplements to athletes. The mix is added to milk.

Generic's director of advertising, Mr. Lackof Creativity, wants to call the product "VITAMIN & MINERAL SUPPLEMENT MIX." You are an examining attorney at the United States Patent and Trademark Office, should Generic, Inc. be allowed to register the proposed mark? Why or why not? (See page 33 for answers.)

If you were the director of advertising what name would you suggest for Generic's new product?

Make Your Mark VI

Emma Hotep has developed a pharmaceutical preparation designed to cure cancer and diabetes. Ms. Hotep's product is made from all natural ingredients. She wants to create a trademark for her product which will suggest the purpose of the preparation but does not state the name of the conditions which the product is designed to cure. Help Ms. Hotep create a trademark for her preparation.

What additional information about the product might help you in creating a trademark for the goods? (See page 33 for answers.)

NOTES

What's in a name?
Now I know you have heard,
that a TRADEMARK is more,
far more, than mere words!

THE END

TRADEMARK OWNERS & FEDERAL REGISTRATION NUMBERS

THE FOLLOWING IS A LIST OF THE TRADEMARK OWNERS & FEDERAL REGISTRATION NUMBERS REFERENCED IN THIS BOOK:

Trademark Examples

BEN & JERRY'S ICE CREAM & design, Ben & Jerry's Inc. for ice cream; Reg. No. 1,397, 022.
NEWSWEEK, Newsweek, Inc. for magazine of general news and features; Reg. No. 1,413,355.
NIKE design, Nike, Inc., for all purpose sports bags, backpacks, footwear and clothing; Reg. No. 1,742,019.
GLORY FOODS & design; Glory Foods, Inc., for processed vegetables, cornbread bakery mix, vinegar, & hot sauce; Reg. No. 1,796,469.

Service Mark Examples

PBS & design; Public Broadcasting Service Corporation; for distributing and facilitating broadcasts of educational and cultural television programming; Reg. No. 1,557,252.
I.M. THUMBUDDY & design; Howard Weinstein; for educational services, namely, promoting and conducting programs related to safety education for children and for fingerprinting services; Reg. No. 1,443,586.
CEASE FIRE, CHILDREN'S DEFENSE FUND AND FRIENDS; Children's Defense Fund Non-Profit Corporation; promoting public awareness in the field of non-violence through the use of public service announcements and other means; Reg. No. 2,120,713.
FRESH FIELDS, GOOD FOR YOU FOODS & design; Tofu, Inc. Grocery Store Services; Reg. No. 1,837,156.

Sound Marks

Metro-Goldwyn Mayer Lion Corp., Reg. No. 1,911,153. Entertainment Services; namely production & distribution of motion pictures, film and video entertainment for viewing via cinema, television, videocassettes and other media. Reg. No. 1,395,550 comprises a lion roaring.

National Broadcasting Company, Inc. (NBC), former Reg. No. 1, 155,077. Radio and Television Broadcasting Services, production and distribution of radio and television programs. Reg. No. 523,616 comprises three tones.

Shapes

Left to Right: **CocaCola Bottle** owned by COCA COLA COMPANY INC., for use with carbonated soft drinks. Reg. No. 696,147.

HUGS design, owned by HOMESTEAD, INC., for use with chocolate candy; Reg. No. 1,927,046.
NUTTER-BUTTER PEANUT BUTTER COOKIE, owned by NABISCO BRANDS CO., for use with cookies; Reg. No. 2142003.
Tabasco Bottle, owned by MCILHENNY COMPANY CORPORATION; for use with hot sauce; Reg. No. 0,805,671.
McDonald's French Fry Container, owned by MCDONALD'S CORPORATION for use with french fries; Reg. No. 1451496.

Color

Owens-Corning Fiberglass Technology, Inc.; Fibrous glass residential insulation; Reg. No. 1,439,132.

Smells

Former Reg. No. 1,639,128 owned by Celia Clarke d/b/a Clarke's Osewez.

Building Marks

Chi-Chi's, Reg. No. 1,618,111. **Pizza Hut**, Reg. No. 852,458. **Kentucky Fried Chicken**, Reg. No. 1,599,822. **McDonald's**, Reg. No. 1,045,615.

Character Marks

Left to Right: "**Charlie the Tuna**," owned by **Star-Kist Foods, Inc**., Reg. No. 1260124. "**Captain Crunch,**" owned by the **Quaker Oats Company**, Reg. No. 1290379. "**Blue Bonnet Maiden,**" owned by **Nabisco, Inc.,** Reg. No. 2021408. "**M&M Guy**" owned by **Mars, Inc.,** Reg. No. 1927086. "**Energizer Bunny,**" owned by **Everready Battery Company, Inc.**, Reg. No. 1773569. "**Tony the Tiger,**" owned by **Kellogg Company**, Reg. No. 1303983. "**Michigan J. Frog,**" owned by **Time Warner Entertainment Company,** L.P., Reg. No. 1873917. "**California Raisin,**" owned by the **California Raisin Advisory Board**, Reg. No. 1527146.

What would happen if we lived in a world without trademarks?

Answer Key & Trademark Owners (page 12)

Pepsi® is a registered trademark owned by PepsiCo. Inc.
Coke® is a registered trademark owned by Coca Cola Company.
Big Mac® is a registered trademark owned by McDonald's Corporation.
Whopper® is a registered trademark owned by Burger King Brands,Inc.
Nike® is a registered trademark owned by Nike,Inc.
Reebok® is a registered trademark owned by Reebok Sports Limited.

Rollerblade® is a registered trademark for in-line skates and is owned by Rollerblade, Inc.
Coke® is a registered trademark for a soft drink and is owned by the Coca-Cola Company.
Kleenex® is a registered trademark for facial tissue and is owned by Kimberly-Clark Corporation.
Xerox® is a registered trademark for photocopiers and is owned by Xerox Corporation.
Fedex® is a registered trademark for over-night courier services and is owned by Federal Express Corporation.

Did You Know? (page 14)

Some examples of former trademarks that have become part of our daily language include: nylon, raisin bran, yo-yo, shredded wheat, trampoline and high octane.

Examples of reasons why a trademark owner would want to prevent another person from using his or her trademark on their goods:
1) The trademark owner will loose money because a person may think they are buying the owner's goods when they are actually buying a counterfeit.
2) The counterfeit product may be inferior to the trademark owner's goods and people may make decisions about future purchases based on the counterfeit goods. In other word's they may stop buying the trademark owner's goods because they received a bad product by a person illegally using the owner's trademark.

Developing a Good Mark (page 26)

Apple is a registered trademark for computers owned by Apple Computer, Inc.

MAKE YOUR MARK PHOTOSTAT EXERCISE (page29)

Model Answer
Do you see any problems with Ms. De-Copi's suggested trademark?
Yes. Rollerblade® is a registered trademark owned by Rollerblade, Inc. Ms. De-Copi's mark, ROL-A-BLADE is remarkably similar to the registered mark ROLLERBLADE.

Should Ms. De-Copi's mark be granted a federal registration?
No, because consumers are likely to confuse ROL-A-BLADE and ROLLERBLADE.® They may think that Ms. De-Copi's skates are made by the same company that makes ROLLERBLADES ®. One of the main purposes of Trademark law is to avoid consumer confusion as to the source of goods.

MAKE YOUR MARK GENERIC DRINK EXERCISE

Should Generic, Inc. be allowed to register the proposed mark? Why or Why not?

Model Answer
No. Generic, Inc.'s goods are literally a Vitamin and Mineral Supplement Mix, Mr. Lackof Creativity has not used any creativity to name the product, he has called the goods by their generic name.

MAKE YOUR MARK ON THE WORLD EXERCISES

What additional information about the product might help you in creating a trademark for the goods?

Model Answer
It may help to know the actual ingredients in the goods, what symptoms the preparations address and any host of other information that your students can think of to help them get their creative juices flowing.

ACKNOWLEDGEMENTS:

Curriculum Author:
Joyce A. Ward
Examining Attorney
U.S. Patent and Trademark Office
Washington, D.C.

Editor:
Frankie Cox
Public Affairs Specialist
U.S. Patent and Trademark Office
Washington, D.C.

Special thanks to the following for their contributions:

Paul Fahrenkopf
(Former) Administrator for Quality and Communications
U.S. Patent and Trademark Office
Technical Support

Ira J. Goodsaid
Trademark Examining Attorney
U.S. Patent and Trademark Office
Author of "The Rap on Trademarks"

George Lorenzo
Trademark Examining Attorney
U.S. Patent and Trademark Office
Illustrator of the "Electric Car" Beep Beep!

James D. Wilson
Trademark Information Specialist
U.S. Patent and Trademark Office
Trademark Assistance Center
Constructive Criticism

Derede McAlpin
Illustrator of "The Seamstress"
The remaining illustrations were obtained from the following: Corel Gallery Clipart Catalog—Version 1.0 (First Printing)
Corel Corporation, 1994
The Print Shop Deluxe, Ensemble II
Broderbund Software, Inc. 1995

*Specific information concerning trademarks obtained from various trademark sources including the Trademark Manual for Examining Attorneys and Basic Facts About Registering a Trademark produced by the United States Patent and Trademark Office.

For more information on trademarks, visit the U.S. Patent and Trademark Office's website at http://www.uspto.gov.

NOTES

38

U.S. PATENT AND TRADEMARK OFFICE

Washington, D.C. 20231

If Undelivered Return in Ten Days

Official Business
Penalty for Private Use. $300